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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/513,117	02/25/2000	Keisuke Yamato-Shi	35.C14302	6628
5514	7590	12/30/2003	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			HODGES, MATTHEW P	
30 ROCKEFELLER PLAZA			ART UNIT	PAPER NUMBER
NEW YORK, NY 10112			2879	

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/513,117	YAMATO-SHI ET AL.
	Examiner	Art Unit
	Matt P Hodges	2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(e). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 11 September 2003.
- 2a)  This action is **FINAL**.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 15-17 is/are withdrawn from consideration.
- 5)  Claim(s) 1-4,6,9 and 12-14 is/are allowed.
- 6)  Claim(s) 5,7,8,10 and 11 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on 25 February 2000 is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

The Amendment, filed on 03/20/2003, has been entered and acknowledged by the Examiner.

Cancellations of claims 15-17 were indicated in the office action but not in a revised listing of the claims. Please include changes in the revised amendment format in the next office action.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 5 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Geis et al. (US 5,728,435).

Regarding claim 5, Geis discloses (see figure 3) a light-emitting device including a carbon film (surface of 40) and an electrode (42) electrically connected to the carbon film. The outermost layer of the cathode tip 40 is composed of diamond but is doped with sulfur, in a percentage less than 5%, to provide conductivity. (Column 4 lines 27-39).

Regarding claim 7, as evident in figure 3 Geis discloses pairs of electrodes each covered with a film as described above and where a gap exists between the films and electrodes.

Claims 8, 10, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Tsukamoto et al. (US 5,986,389).

Regarding claim 8, Tsukamoto discloses (see figure 1H) a light-emitting device including a substrate (1), electrodes (2 and 3), electroconductive films (4 and 5), and carbon films (8) located in the gap created by the electroconductive films. (Column 6 lines 13-19) and (Column 9 lines 10-20). The carbon films contain primarily carbon and no sulfur.

Regarding claim 10, Tsukamoto further discloses (see figure 8) the use of wires to connecting the light-emitting devices described above in the rejection of claim 8. (Column 15 lines 30-38).

Regarding claim 11, Tsukamoto further disclose (see figure 9) the use of the wiring and light-emitting devices described in the rejections of claims 8 and 10 above to form an image forming device. (Column 16 lines 26-35).

#### *Allowable Subject Matter*

Claims 1-4, 6, 9, and 12-14 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claims 1, 2, 6 and 9, the references of the Prior Art of record fails to teach or suggest the combination of the limitations as set forth in claims 1, 2, 6 and 9, and specifically comprising the limitation of an electron-emitting device including a carbon film containing

sulfur in the film in a range of not less than 1 mol% and not more than 5 mol% as a ratio to carbon.

Regarding claims 3 and 4, claims 3 and 4 are allowable for the reasons given in claims 1 and 2 because of their dependency status from claims 1 and 2.

Regarding claim 12, the references of the Prior Art of record fails to teach or suggest the combination of the limitations as set forth in claim 12, and specifically comprising the limitation of an electron-emitting device including a carbon film containing sulfur in the film in a range of not less than 1 mol% as a ratio to carbon.

Regarding claims 13 and 14, claims 13 and 14 are allowable for the reasons given in claims 1 and 2 because of their dependency status from claims 1 and 2.

***Response to Arguments***

As a new rejection was made on previously indicated allowable subject matter this action is made non-final

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt P Hodges whose telephone number is (703) 305-4015. The examiner can normally be reached on 7:30 AM to 4:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (703) 305-4794. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 308-7382 for regular communications and (703) 308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

mph MA

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